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Willamette Valley Communications Center

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ERIK PIERCE,

Plaintiff,

v.

CITY OF SALEM, conducting business as  
WILLAMETTE VALLEY  
COMMUNICATIONS CENTER; MARION  
COUNTY; GRANT ZAITZ and JEFFREY  
GOODMAN,

Defendants.

Case No. 06-CV-1715 KI

**DEFENDANTS CITY OF SALEM AND  
WILLAMETTE VALLEY  
COMMUNICATIONS CENTER'S  
REQUESTED JURY INSTRUCTIONS**

Defendants City of Salem and Willamette Valley Communications Center requests that the Court give the designated Oregon State Bar Uniform Civil Jury Instructions along with the attached Special Jury Instructions at the trial of the above-captioned matter.

DATED this 15<sup>th</sup> day of September, 2009.

/s/Kenneth S. Montoya

Kenneth S. Montoya

OSB # 06446

Tel: (503) 588-6003

Of Attorneys for Defendant City of Salem

**OREGON STATE BAR CIVIL JURY INSTRUCTIONS**

UCJI No. 20.02	Common-law Negligence
UCIJ No. 20.03	Negligence Per Se – Modified to Fit the Facts
UCJI No. 21.02	Comparative Negligence – Modified to Fit the Facts
UCJI No. 23.01	Causation (Cause defined)
UCJI No. 70.01	Damages – Preliminary Instruction
UCJI No. 70.02	Damages – Non-economic
UCJI No. 70.03	Damages – Economic
UCJI No. 90.01	Verdict – Special
UCJI No. 90.04	Verdict – Special Verdict – Comparative Negligence

**SPECIAL JURY INSTRUCTIONS**

**REQUESTED SPECIAL INSTRUCTIONS**

1. REQUESTED SPECIAL INSTRUCTION NO. 1	
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2. REQUESTED SPECIAL INSTRUCTION NO. 2	
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**REQUESTED SPECIAL INSTRUCTION NO. 1**

**(Comparative Negligence)**

The plaintiff and the defendant have each alleged that the damage was caused by the other's negligence. If you find that both the defendant and the plaintiff were negligent in any respect alleged which was a substantial factor in causing the damage alleged, then you must compare the negligence of the plaintiff to the negligence of the defendant.

In making this comparison, you are to consider the relative unreasonableness of the parties' conduct and not the mere physical causes of any damage.

The comparison of fault must be expressed in terms of percentages that total 100%. If the plaintiff's negligence is more than 50%, then your verdict is for the defendant. On the other hand, if the plaintiff's negligence is 50% or less, then your verdict is for the plaintiff.

Do not reduce the amount of the plaintiff's damages, if any, as a result of your comparison. I will reduce the amount of your verdict by the percentage of the plaintiff's negligence, if any.

The second paragraph is derived from *Sandford v. Chev. Div. Gen. Motors*, 292 Or 590, 6060-610, 642 P2d 624 (1982).

**REQUESTED SPECIAL INSTRUCTION NO. 2**

**(Negligence Per Se)**

The evidence is that plaintiff has been convicted of the crimes of assaulting a police officer under ORS 163.208 and resisting arrest under ORS 162.315. These statutes provide, in relevant part, that:

**ORS 163.208 Assaulting a Peace Officer**

A person commits the crime of assaulting a public safety officer if the person intentionally or knowingly causes physical injury to the other person, knowing the other person to be a peace officer \*\*\* and while the other person is acting in the course of official duty.

**ORS 162.315 Resisting Arrest**

A person commits the crime of resisting arrest if the person intentionally resists a person known by the person to be a peace officer or parole and probation officer in making an arrest.

A violation of these statutes constitutes negligence unless the plaintiff proves by a preponderance of the evidence that he was acting as a reasonably careful person in the circumstances.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **DEFENDANTS CITY OF SALEM AND WILLAMETTE VALLEY COMMUNICATIONS CENTER'S REQUESTED JURY INSTRUCTIONS** on the following parties by notice of electronic filing using the CM/ECF system.

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Dated this 15<sup>th</sup> day of September, 2009

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